IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.85 OF 2004

Sanjay Bapuso Patil Applicant

versus

Digambar Dattatray Varne & anr. Respondents

Mr.Shailesh Kantharia for applicant.

Mr.H.S.Venegavkar for respondent no.1.

Ms.S.D.Shinde - APP for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 13th December 2005

PC :

1. In my view, all that the Court below has done is issue process on a complaint preferred by the first respondent alleging offence u/s 138 of the Negotiable Instruments Act.

2. The applicant herein applied for recalling of the order issuing process and that application was disallowed by the learned Magistrate on 28th April 2003. A criminal revision application challenging that order was rejected by the

Sessions Judge on 29th November 2003. The contention raised by the present applicant about the compliance of the statutory requirement of issuance of notice giving 15 days to the person issuing cheque to either make payment or make other arrangements, can be raised during the course of trial and neither the rejection by Magistrate nor by the Sessions Judge of the applications concerned, would constitute a bar in doing so nor for the Court below to consider and pass appropriate orders thereon in accordance with law. All contentions of both sides are kept open.

(S.C.DHARMADHIKARI, J.)